Moore v. *Hart,* 171 Ky. 725; *Southern Ry.* v. *Vaughan's Admr.,* 118 Va. 692; *Hersman* v. *Roane County Court,* 86 W. Va. 96. Outside of Massachusetts it is almost universally held that the fact that the car of one of the parties was not licensed does not bar recovery or defense on the merits. *Armstead* v. *Lounsberry,* 129 Minn. 34; *Moore* v. *Hart, supra; Southern Ry.* v. *Vaughan, supra; Hersman* v. *Roane County Court, supra.* In *Broschart* v. *Tuttle,* 59 Conn. 1, the court clearly points out the error in the Massachusetts Sunday law rulings which are the basis of the anomalous Bay State license rule, when it says: "The fallacy of the Massachusetts rule consists in assuming that a mere concurrence of the illegal act in the point of time is to be treated as a concurring cause of the injury, which it is not, but rather a condition or incident merely." The principal case does not fail to observe this distinction.

PARTNERSHIP—GUARANTY OF BONDS BY A PARTNER—BURDEN OF PROOF.—A salesman of the firm of Farson, Son and Co., who carried on the business of dealing in stocks and bonds, sold five $1000 bonds of the Eden Irrigation and Land Company to the plaintiff, Parnall. The bonds were delivered March 9, 1909. The salesman had been authorized by John Farson, Sr., to state that the bonds would be guaranteed by Farson, Son and Co. When the bonds were delivered to Parnall there was attached to each bond a written guaranty of Farson, Son and Co. of "prompt payment of both principal and interest." The firm had also issued a circular in which they "unconditionally guaranteed" the bonds. The plaintiff paid ninety-eight cents on the dollar and accrued interest for the guaranteed bonds. Bonds without the guaranty were offered at a considerably lower figure. Plaintiff had dealt with the firm before and knew them to be financially responsible. The defendant firm were owners of the bonds, having purchased the entire issue from the Eden Company. The cashier of the firm was the secretary and treasurer of the Eden Company. John Farson, Sr., died in January, 1910, and the business was continued under the same firm name by his two sons. On December 31, 1912, Farson, Son and Co. notified the plaintiff that the Eden Company had no funds to pay maturing interest and principal. Thereupon plaintiff demanded payment from the firm on their guaranty. The firm then requested the plaintiff to forward to them the coupons together with the guaranty. After examination of the guaranty the firm paid the coupons due January 1, 1913, and returned the guaranty. Farson, Son and Co. continued to pay the coupons till October 4, 1916. Since that time none have been paid. *Held:* (1) John Farson, Sr., had actual authority to give the guaranty in the firm name. (2) John Farson, Jr., ratified the act of guaranty by payment of the coupons "with exact knowledge of the contents, tenor, and effect of the written guaranties." (3) It was not error to admit "testimony showing that the defendant had paid three-fifths of all the bonds issued." *Parnall* v. *Farson* (N. Y., 1922), 192 N. Y. Supp. 20.

The decision is so manifestly correct as to the first two points that it is somewhat surprising to know that there has been a long drawn out litigation of the matter, the end of which is not yet, as application has been

made to prosecute a further appeal to the Court of Appeals on behalf of the defendant brokers. In an action on a similar guaranty issued by the same firm to the First National Bank of Ann Arbor, Michigan, it was decided that there was a presumption of implied authority in John Farson, Sr., to guarantee the bonds for the firm and that the burden was upon the defendants to give evidence as to whether the guaranty was within the ordinary manner of carrying on the business. 178 App. Div. 135; 165 N. Y. Supp. 119. This finding was, however, reversed and a new trial ordered by the Court of Appeals, 226 N. Y. 218, which held that the burden of proof is upon the purchaser to show that the partner signing the guaranty had authority so to do. This is of course in accord with the well-established rule that the burden of proof rests on the one asserting the fact. *Sibley* v. *American Exchange Bank,* 97 Ga. 138, but it was suggested by the lower court that inasmuch as the firm was in this instance promoting a sale of its own property this in itself "was sufficient to cast upon the defendants the burden of rebutting the presumption arising from the evidence and the pleadings." *Johnston* v. *Trask,* 116 N. Y. 143. This argument is, however, purely academic since the decision of the Court of Appeals, and, in the instant case, the plaintiff has taken upon himself the burden of proof and sustains it by giving evidence that the firm was in this instance promoting a sale of its own property, as in the previous case, together with other evidence which it is to be hoped will satisfy the Court of Appeals. The ruling as to lack of error on the third point seems to be sound, as the evidence admitted "had a material bearing on the issues in this action."

PLEADING—ADMISSION OF LIABILITY FOR PART NOT BINDING UNLESS PLAINTIFF TAKES JUDGMENT BEFORE TRIAL FOR AMOUNT ADMITTED.—In an action of assumpsit by a sales agent against an automobile corporation for $1392.53 for commissions alleged to be due the plaintiff, the defendant corporation filed a plea of non assumpsit and an affidavit in which it admitted $63.33 of the claim to be due the plaintiff for services performed, but disputed the balance. The plaintiff proceeded to trial for the recovery of the whole amount. The defendant moved for a directed verdict in its favor, but the plaintiff contended that a verdict could not be directed in favor of the defendant for the reason that it had admitted, on the pleadings, a part of the claim. *Held,* admission of liability for part of the claim was not binding upon the defendant because the plaintiff failed to take judgment before trial for the amount admitted. *Standard Motor Co.* v. *Shockey* (Md., 1921), 114 Atl. 869.

It is a universal rule that pleadings containing admissions, which are signed or sworn to by the pleader, are binding upon him in the action wherein they are filed without being specially offered as evidence, being regarded as before the court for all legitimate purposes. 21 R. C. L., par. 120, and cases cited. "An admission in pleading dispenses with proof, and is equivalent to proof." *Connecticut Insane Hospital* v. *Brookfield,* 69 Conn. 1. "It is never necessary to prove what is admitted in the pleadings."